

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION**

KENNETH TREKELL	)	
	)	
Plaintiff,	)	Case No.: 4:18-CV-00662-DGK
	)	
v.	)	
	)	
	)	
TARGET CORPORATION,	)	
	)	
Defendant.	)	

**DEFENDANT TARGET CORPORATION'S  
MOTION FOR SUMMARY JUDGMENT**

COMES NOW Defendant Target Corporation (“Target”), pursuant to Fed. R. Civ. P. 56 and Local Rule 56.1, and moves the Court to enter summary judgment against Plaintiff and in its favor on Plaintiff’s First Amended Petition for Damages. In support of its Motion for Summary Judgment, Target refers the Court to the accompanying Suggestions in Support of its Motion which is filed concurrently herewith and incorporated herein by reference.

**LEGAL BASIS FOR THE MOTION**

Plaintiff’s negligence claim fails as a matter of law. Plaintiff Kenneth Trekell alleges that some unknown driver negligently operated a truck-trailer which caused, or contributed to cause, an accident in which Plaintiff sustained physical injuries. Plaintiff further alleges that Defendant is vicariously liable for the negligence of this unknown driver because Plaintiff believes he saw a Target logo on the trailer. Target is now moving for summary judgment in its favor on the basis that Plaintiff has failed to satisfy the requisite elements to establish negligence or vicarious liability against Target for the alleged unknown driver of a truck. Specifically, Target is entitled to judgment as a matter of law because 1) Target is not a carrier and, thus, Plaintiff cannot establish

a claim of negligence against it on the basis of “Logo Liability”; (2) Plaintiff is unable to present evidence to establish any of the elements of liability under the theory of respondeat superior; and (3) Plaintiff cannot present any evidence to support a claim of liability under the theory of joint venture

Therefore, as set forth in the concurrently filed memorandum of law, Plaintiff has failed to state a *prima facie* case of negligence or vicarious liability for the alleged driver of the truck against Target. Accordingly, summary judgment in favor of Target is appropriate.

WHEREFORE, Defendant Target Corporation prays that judgment be entered summarily in favor of it and against Plaintiff as to Plaintiff’s Petition for Damages, and for any other relief as the Court deems necessary.

Respectfully submitted,

/s/ Theresa A. Otto

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ATTORNEYS FOR DEFENDANT

**CERTIFICATE OF FILING**

I do hereby certify that a true and accurate copy of the foregoing document was served via the Court's ECF Notification System on this 31<sup>st</sup> day of July 2019 to the following:

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